

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUAN CARLOS DELGADO, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:20-cv-2115
§
SALINAS DENTAL GROUP, P.A., §
and ADRIANA M. SALINAS, §
INDIVIDUALLY, §
§
Defendants. §

PLAINTIFF'S ORIGINAL COMPLAINT

SUMMARY OF SUIT

1. Defendant Salinas Dental Group, P.A. (the "Company") is a pediatric and family dental practice located in Houston, Texas. The Company is owned and operated by Defendant Adriana M. Salinas ("Salinas"), its president. Reference to the "Defendants" is collectively to the Company and Salinas.

2. Unfortunately, the Defendants misclassify their non-exempt employees for purposes of overtime compensation. As such, the Defendants did not pay their non-exempt employee, Plaintiff Juan Carlos Delgado (the "Plaintiff"), one and one-half (1½) times his regular hourly rate for hours worked over forty (40) per workweek in violation of the Fair Labor Standards Act.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction under 29

U.S.C. § 216(b) (2020) and 28 U.S.C. § 1331 (2020).

4. The Plaintiff brings this Complaint in the district in which the Company does business and where a substantial portion of the conduct charged herein occurred. As such, venue is proper in this district pursuant to 28 U.S.C. § 1331(b) (2020).

THE PARTIES

5. The Plaintiff, a resident of Houston, Texas, was employed by the Company within the meaning of the FLSA during the three (3) year period preceding the filing of this Complaint. In performing his duties for the Company, the Plaintiff engaged in commerce or in the production of goods for commerce.

6. The Company, an enterprise engaged in commerce, is a professional association with its principal place of business located in Houston, Texas. The Company has acted, directly or indirectly, in the interest of an employer with respect to the Plaintiff. The Company may be served with process by serving Salinas, its registered agent, at 6502 Bellaire Blvd., Suite B, Houston, Texas 77074.

7. Salinas has acted, directly or indirectly, in the interest of an employer with respect to the Plaintiff. Salinas may be served with process at 6502 Bellaire Blvd., Suite B, Houston, Texas 77074.

BACKGROUND

8. The Plaintiff was continuously employed by the Defendants as a dental assistant during the three (3) year period preceding the filing of this Complaint. The Plaintiff typically worked more than forty (40) hours each week but was not paid overtime compensation for overtime hours worked.

9. As a non-exempt employee, the Plaintiff was entitled to be paid one and one-half (1½) times his regular rate for all hours worked in excess of forty (40) hours in a workweek. 29 U.S.C. § 207 (2020).

10. No exemption excuses the Defendants from paying the Plaintiff overtime compensation for all hours worked over forty (40) hours each work week. Nor have the Defendants made a good faith effort to comply with the FLSA. Instead, the Defendants knowingly, wilfully, or with reckless disregard carried out an illegal pattern or practice regarding unpaid overtime compensation with respect to the Plaintiff.

11. Salinas has a substantial financial interest in the Company and is directly involved in:

- a. the hiring and firing of its employees;
- b. its day-to-day operations as they relate to defining the terms of employment, workplace conditions, and the level of compensation to be received by its employees;
- c. its finances; and

d. corporate decisions.

12. The Company generated gross annual revenues of at least \$500,000.00.

CAUSE OF ACTION

A. Unpaid Overtime Compensation

13. The Plaintiff regularly worked in excess of forty (40) hours per week for which he was not compensated at one and one-half (1½) times his regular rate of pay.

14. As a non-exempt employee, the Plaintiff was entitled to be paid one and one-half (1½) times his regular hourly rate for all hours worked in excess of forty (40) hours in a workweek. 29 U.S.C. § 207(a) (2020). Accordingly, the Defendants' practice of failing to pay the Plaintiff overtime compensation was and is a clear violation of the FLSA.

15. No exemption excused the Defendants from paying the Plaintiff one and one-half (1½) times his regular hourly rate for hours worked over forty (40) hours. Nor did the Defendants make a good faith effort to comply with the FLSA. Instead, the Defendants knowingly, wilfully, or with reckless disregard carried out their illegal pattern or practice regarding overtime compensation with respect to the Plaintiff.

16. Accordingly, the Plaintiff is entitled to overtime pay in an amount which is one and one-half (1½) times his regular

rate of pay.

17. In addition, the Plaintiff is entitled to an amount equal to all of his unpaid overtime wages as liquidated damages.

18. Finally, the Plaintiff is entitled to reasonable attorneys' fees and costs of this action. 29 U.S.C. § 216(b) (2020).

PRAYER

WHEREFORE, Plaintiff Juan Carlos Delgado requests that this Court award him judgment, jointly and severally, against Defendants Salinas Dental Group, P.A., and Adriana M. Salinas, Individually, for:

- a. damages for the full amount of the Plaintiff's unpaid overtime compensation;
- b. an amount equal to the Plaintiff's unpaid overtime compensation as liquidated damages;
- c. reasonable attorneys' fees, costs and expenses of this action;
- d. pre-judgment interest and post-judgment interest at the highest rates allowable by law; and
- e. such other and further relief as may be allowed by law.

Respectfully submitted,

/s/ Mark Siurek

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